

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Effects of Communications Towers	)	WT Docket No. 03-187
on Migratory Birds	)	
	)	
To: The Commission		

**JOINT COMMENTS OF THE  
NAMED STATE BROADCASTERS ASSOCIATIONS**

**NAMED STATE BROADCASTERS ASSOCIATIONS**

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## SUMMARY

These comments are being filed on behalf of the state broadcast associations named herein (the “State Associations”). The members of the State Associations own or lease space on communications towers located throughout the country for the purpose of television and radio broadcasting. These towers enable broadcasters to provide essential broadcast services to their local communities. As United States Senator Mary Landrieu has stated in connection with her proposed First Response Broadcasters Act of 2007:

“Our local television and radio broadcasters were a lifeline to the people of Louisiana and the Gulf Coast as Hurricanes Katrina and Rita rolled ashore in 2005. They provided vital public safety information and comfort to thousands of people when both were needed the most. By serving at the front lines of disaster response, it is important to know that **local broadcasters are, in fact, first responders.**”<sup>1/</sup>

In short, not only do local broadcasters entertain and inform, they also provide vital public safety information during emergencies and major disasters. Accordingly, the FCC should refrain from adopting any new regulations or policies that would jeopardize the provision of services by this vital industry.

No credible scientific evidence has been put forth in this proceeding, which has spanned 3 ½ years, to show that communications towers are having a significant adverse effect upon migratory bird populations. The Commission’s own commissioned study of this issue concluded that “no studies to date . . . demonstrate an unambiguous relationship between avian collisions with communications towers and population decline of migratory bird species” and that “biologically significant tower kills have not been demonstrated in the literature.” In fact, figures released by the United States Fish and Wildlife Service suggest that the effect on

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<sup>1/</sup> See Senator Landrieu’s website at <http://landrieu.senate.gov/broadcasters/> (emphasis original).

migratory bird populations of communications towers is negligible. By contrast, the imposition of onerous requirements regarding tower siting and design would impair public safety, homeland security, and aircraft navigational safety, and would cause significantly increased costs and delays in the deployment of vital communications infrastructure. The Commission should not adopt new regulations where these known costs outweigh any speculative benefits.

The National Environmental Policy Act (“NEPA”), the Endangered Species Act (“ESA”), and the Migratory Bird Treaty Act (“MBTA”) do not require otherwise. NEPA and the ESA do not apply to private business decisions regarding tower siting and design nor do they apply where, as here, no evidence exists that communications towers are having a significant effect on migratory bird populations. Likewise, the Migratory Bird Treaty Act does not apply to the incidental avian deaths resulting from collisions with these towers.

For these reasons, the State Associations urge the Commission to refrain from imposing additional regulations relating to potential avian collisions with communications towers.

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Alabama Broadcasters Association, Alaska Broadcasters Association, Arizona Broadcasters Association, Arkansas Broadcasters Association, California Broadcasters Association, Colorado Broadcasters Association, Connecticut Broadcasters Association, Florida Association of Broadcasters, Idaho State Broadcasters Association, Illinois Broadcasters Association, Indiana Broadcasters Association, Iowa Broadcasters Association, Kansas Association of Broadcasters, Kentucky Broadcasters Association, Louisiana Association of Broadcasters, Maine Association of Broadcasters, MD/DC/DE Broadcasters Association, Massachusetts Broadcasters Association, Michigan Association of Broadcasters, Minnesota Broadcasters Association, Mississippi Association of Broadcasters, Missouri Broadcasters Association, Montana Broadcasters Association, Nebraska Broadcasters Association, Nevada Broadcasters Association, New Hampshire Association of Broadcasters, New Mexico Broadcasters Association, The New York State Broadcasters Association, Inc., North Dakota Broadcasters Association, Ohio Association of Broadcasters, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of Broadcasters, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee

Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Washington State Association of Broadcasters, Wisconsin Broadcasters Association, and Wyoming Association of Broadcasters (collectively, the “State Associations”), by their attorneys in this matter and pursuant to Section 1.415 of the Commission’s rules, hereby submit their Joint Comments in response to the Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.

In the NPRM, the Commission seeks comment on whether it should institute any measures to reduce the instances in which migratory birds may collide with communications towers. The NPRM follows up on the Commission’s August 2003 Notice of Inquiry (“NOI”) addressing this same issue. In response to the NOI, various members of the communications industry pointed out that there was no credible scientific evidence to indicate that collisions with communications towers cause significant levels of migratory bird mortality. Since that time, no new evidence has been put forth that demonstrates a significant problem in this area. On the other hand, it is beyond doubt that restrictions on tower siting and design pose risks to public safety, homeland security, and aircraft navigational safety and will cause significantly increased costs and delays in the deployment of communications infrastructure, all to the detriment of the public served by critically important communications services. As Senator Landrieu’s proposed First Response Broadcasters Act of 2007 recognizes, local broadcasters serve at the front lines of disaster response.<sup>1/</sup> They not only entertain and inform, but they also provide vital public safety information during emergencies and major disasters. Accordingly, the FCC should refrain from

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<sup>1/</sup> See *Landrieu-Stevens Bill to Recognize Local Broadcasters’ First Response Role Following Major Disasters*, available on the website of United States Senator Mary L. Landrieu at <http://landrieu.senate.gov/~landrieu/releases/06/2007416512.html>.

adopting any new regulations or policies that would jeopardize the provision of services by this vital industry.

## **DISCUSSION**

### **I. No Rational Basis Exists to Justify a Change in the Commission's Regulations and Policies Regarding Communications Towers**

The primary responsibility of the Commission is to ensure the availability to all United States citizens of a rapid, efficient, nationwide and worldwide communications service.<sup>2/</sup> While the Commission must consider the effects of its actions on the environment in certain contexts, it may not compromise its primary, statutory mission particularly where, as here, no federal law mandates such action and evidence supporting new regulations or policies has not been shown to exist.

#### **A. The Environmental Laws Do Not Mandate Regulation of Communications Towers for Migratory Birds**

As has been amply demonstrated in this proceeding, none of the relevant environmental statutes mandate Commission regulation of tower siting and design to protect migratory birds. The National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4321 *et seq.*, requires agency analysis of environmental effects only when a "major Federal action[] significantly affect[s] the quality of the human environment."<sup>3/</sup> As others in this proceeding have pointed out, decisions regarding the location and construction of communications towers are private actions, not federal acts.<sup>4/</sup> The Commission provides no federal funds for the construction of such towers. It has little to no involvement in the tower siting and design process. While broadcasters are required

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<sup>2/</sup> See Title 1, Section 1 of the Communications Act of 1934, as amended, 47 U.S.C. § 151.

<sup>3/</sup> 42 U.S.C. § 4332(2)(c).

<sup>4/</sup> See, e.g., Comments of the Cellular Telecommunications & Internet Association and National Association of Broadcasters, dated November 12, 2003, at 5.

to apply for a construction permit in order to construct or modify their facilities, the Commission's review with respect to tower siting is primarily focused on signal coverage and interference issues. Similarly, the Commission's requirement that stations register towers above a certain height is designed to ensure compliance with Federal Aviation Administration ("FAA") regulations for air navigation safety and involves no review or evaluation by the Commission of tower siting or design. Thus, the decisions of private communications entities regarding where to locate and how to build their towers do not constitute major federal action under NEPA.<sup>5/</sup>

Moreover, as more fully set forth below, there is no credible scientific evidence in the record to demonstrate that the siting and design of communications towers is having such an impact on migratory bird populations that the quality of the human environment is being significantly affected.<sup>6/</sup> Agencies such as the FCC are "not required to consider alternatives that are 'remote and speculative,' but may deal with circumstances 'as they exist and are likely to exist.'"<sup>7/</sup> Significantly, the only case to have decided the issue held that construction of a communications tower does not have a significant effect on the environment.<sup>8/</sup>

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<sup>5/</sup> See, e.g., *Sugarloaf Citizens Association v. FERC*, 959 F.2d 508 (4<sup>th</sup> Cir. 1992) (finding that agency certification of a facility was not "major Federal action" where agency had no choice but to grant certification upon finding that the facility met certain agency-prescribed rules and agency had no control over construction or operation of the facility).

<sup>6/</sup> See *Found. For North American Wild Sheep v. United States Dept. of Agriculture*, 681 F.2d 1172, 1179 (9<sup>th</sup> Cir. 1982) (stating that the test under NEPA is "whether...the proposed project may significantly degrade some human environmental factor").

<sup>7/</sup> *Natural Res. Def. Council, Inc. v. Hodel*, 865 F.2d 288, 295 (D.C. Cir. 1988), quoting *NRDC v. Morton*, 458 F.2d 827, 838 (D.C. Cir. 1972), citing *Carolina Env'tl. Study Group v. United States*, 510 F.2d 796, 801 (D.C. Cir. 1975).

<sup>8/</sup> *Brehmer v. Planning Bd. Of the Town of Wellfleet*, 238 F.3d 117, 123 (1<sup>st</sup> Cir. 2001) (finding that NEPA does not require analysis of effects on avian mortality from construction of a communications tower).



Likewise, the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 *et seq.*, does not mandate further action by the Commission to protect migratory birds. That Act requires that federal agencies consult with the Secretary of the Interior to ensure that an agency action “is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species.”<sup>9/</sup> Just as private tower siting decisions do not constitute “major Federal action” under NEPA, neither do such decisions constitute “agency action” under the ESA. Even if they did, no studies have been submitted in this proceeding to suggest that FCC action pertaining to communications towers generally jeopardizes the continued existence of any endangered or threatened avian species. In any event, should the proposed construction of a specific tower have the potential to place such species in jeopardy, the Commission already has in place regulations that ensure full compliance with the ESA. Specifically, Commission regulations require the preparation of an Environmental Assessment (“EA”) when proposed facilities “may affect listed threatened or endangered species or designated critical habitats; or . . . are likely to jeopardize the continued existence of any proposed endangered or threatened species or [are] likely to result in the destruction or adverse modification of proposed critical habitats . . . .”<sup>10/</sup> The process of evaluating the EA and, if required, drafting an Environmental Impact Statement, includes opportunities for participation by interested persons and agencies as well as other authorities with jurisdiction or relevant expertise regarding the species at issue.<sup>11/</sup> The ESA requires nothing more.

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<sup>9/</sup> 16 U.S.C. § 1536(a)(2). An “agency action” is defined as “any action authorized, funded, or carried out by such agency.” *Id.*

<sup>10/</sup> 47 C.F.R. § 1.1307(a)(3).

<sup>11/</sup> See 47 C.F.R. §§ 1.1308, 1.1314-1.1317.

Likewise, the Migratory Bird Treaty Act (“MBTA”) does not apply to the incidental avian deaths resulting from collisions with communications towers. The MBTA, 16 U.S.C. § 701 *et seq.*, makes it unlawful “at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill” any migratory bird. 16 U.S.C. § 703(a). Courts have held that otherwise lawful activities, such as construction of communications towers, that indirectly result in the death of migratory birds do not violate the MBTA.<sup>12/</sup> Accordingly, the treaty does not require the FCC to act to prevent unintended and incidental avian deaths caused by communications towers.

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<sup>12/</sup> See, e.g., *Newton County Wildlife Association v. U.S. Forest Service*, 113 F.3d 110, 115 (8th Cir. 1997), *cert. den. sub nom.*, *Newton County Wildlife Association v. Rogers*, 552 U.S. 1108 (1998) (finding that the MBTA does not prohibit conduct, such as timber harvesting, that indirectly results in the death of migratory birds); *Sierra Club v. Martin*, 110 F.3d 1551, 1555 (11th Cir. 1997) (finding that the MBTA does not prohibit the U.S. Forest Service “from taking or killing a single migratory bird or nest ‘by any means or in any manner’ given that the Forest Service’s authorization of logging on federal lands inevitably results in the deaths of individual birds and destruction of nests.”); *Mahler v. U.S. Forest Service*, 927 F. Supp. 1559 (S.D. Ind. 1996) (“Properly interpreted, the MBTA applies to activities that are intended to harm birds or to exploit birds, such as hunting or trapping, and trafficking in birds and bird parts. The MBTA does not apply to other activities that result in unintended deaths of migratory birds.”).

In implying that the MBTA is violated by the “unauthorized taking of even one bird,” the U.S. Fish and Wildlife Service (“USFWS”) fails to clarify that the word “take” is a term of art defined by a long line of court cases. As stated, these cases have held that the MBTA applies only to instances of hunting or poaching. The sole case cited by the USFWS, *U.S. v. Moon Lake Elect. Ass’n*, 45 F. Supp. 2d 1070 (D.C. Colo. 1999), actually undermines the USFWS’s position. In this case, a federal district court noted that to convict under the MBTA, the prosecutor must establish that the conduct in question was the “proximate cause” of the death of a protected bird. In making this finding, it was noted that certain activities such as driving an automobile or maintaining an office building “would not normally result in liability under [the MBTA], even if such activities would cause the death of a protected bird. . . . [P]roper application of the law . . . should not lead to absurd results.” *Id.* at 1085.

**B. No Credible Scientific Evidence has been Put Forth to Demonstrate that Communications Towers Have a Significant Adverse Effect on Migratory Bird Populations**

No credible scientific evidence exists in the record to suggest that avian deaths from communications towers are having a significant adverse effect on migratory bird populations. At the commencement of this proceeding, Avatar Environmental, LLC (“Avatar”) and Woodlot Alternatives, Inc. (“Woodlot”), two environmental consulting firms, examined the scientific studies available at that time regarding migratory bird collisions with communications towers. Both firms reached similar conclusions. Specifically, Avatar, which was retained by the Commission, concluded that there were “no studies to date that demonstrate an unambiguous relationship between avian collisions with communications towers and population decline of migratory bird species” and that “biologically significant tower kills have not been demonstrated in the literature . . . .”<sup>13/</sup> Similarly, Woodlot, retained by communications industry groups, concluded, “[t]here have been many incidental reports of avian mortality at certain communications towers. The quality of information in these reports varies widely, with no standard methodology used in collection of data. Due to the incidental and biased nature of these reports it is not possible to examine specific factors that have contributed to avian mortality.”<sup>14/</sup> Thus, both consulting firms concluded that little peer-reviewed scientific research had been conducted on avian mortality resulting from collisions with communications towers and that more research was needed.

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<sup>13/</sup> Notice of Inquiry Comment Review, Avian/Communications Tower Collisions, Final, Prepared for Federal Communications Commission, by Avatar Environmental, LLC, dated September 30, 2004, at 5-2.

<sup>14/</sup> Woodlot Alternatives, Inc., An Assessment of Factors Associated with Avian Mortality at Communications Towers – A Review of Existing Scientific Literature and Incidental Observations: Technical Comments prepared in response to the August 20, 2003, Notice of Inquiry Issued by the Federal Communications Commission (FCC) WT Docket No. 03-187, November 2003 at i.

Since that time, a single study of the effects of various tower designs on avian mortality has been submitted in this proceeding. That study, the Gehring/Kerlinger study, involved the monitoring of bird strikes at up to 21 Michigan Public Safety Communications System towers and three privately-owned towers over five 20-day sample periods from 2003 to 2005.<sup>15/</sup> The study focused on the peak periods of spring and fall migration, when the number of bird strikes was likely to be at its highest. The study was also limited in duration and geographic scope, thereby raising questions about its general applicability to all towers throughout the country. In any event, this study, at most, suggests that, in certain conditions, communications towers pose hazards to some migratory birds. Neither it nor any of the studies or reports that precede it establish or even suggest a significant adverse effect on migratory bird populations generally.

In fact, annual avian mortality attributable to communications towers accounts for only approximately 0.05% of total migratory bird populations.<sup>16/</sup> By contrast, other human-related factors are responsible for vastly larger numbers of avian mortalities. For example, the U.S. Fish and Wildlife Service estimates that collisions with windows on buildings account for 97 to 976 million avian deaths annually, collisions with transmission and distribution power lines account for tens of thousands to 174 million avian deaths annually, collisions with vehicles account for at least 60 million avian deaths annually, domestic and feral cats account for hundreds of millions

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<sup>15/</sup> See Joelle Gehring and Paul Kerlinger, Curry & Kerlinger, LLC, Avian collisions at communications towers: I. The role of tower height and guy wires, and II. The role of Federal Aviation Administration obstruction lighting systems, March 2007.

<sup>16/</sup> This figure is based on U.S. Fish and Wildlife Service (“USFWS”) estimates of 5 million avian deaths annually as a result of collisions with communications towers and a minimum population of 10 billion birds in North America. See USFWS, *Migratory Bird Mortality: Many Human-Caused Threats Afflict our Bird Populations*, January 2002 (“*Migratory Bird Mortality Report*”). The USFWS estimates that communications towers kill 4 to 5 million birds annually (possibly closer to 40 to 50 million). *Id.* at 2. Even using the highest “guestimate” of 50 million avian deaths annually due to collisions with towers, this would at most account for only 0.5% of the total population.

of avian deaths annually, and pesticide poisoning accounts for at least 72 million avian deaths annually.<sup>17/</sup> Thus, taken in context, the effect of communications towers on migratory birds cannot be considered legally significant for purposes of NEPA and other environmental statutes.<sup>18/</sup> Moreover, it is important to note that these numbers are mere estimates based on extrapolation from avian mortality reports that often fail to meet scientific standards and from scientific studies that were limited in the duration, geographic scope, and the number of towers involved.

It is axiomatic that reasoned decision making must be based on evidence.<sup>19/</sup> Despite claims to the contrary, no evidence exists to support the notion that the relatively small contribution by communications towers to total avian mortality is having any discernible effect on the overall size or makeup of migratory bird populations.

## **II. Further Study is Necessary to Determine Whether Any of the FCC's Proposed Changes May be Implemented Without Posing Unacceptable Risks to Aircraft Navigation or Public Safety, Undue Delay in the Implementation of Communications Infrastructure or Unjustified Costs to Consumers**

As demonstrated, existing studies do not establish a legally significant effect of communications towers on migratory bird populations. More importantly, however, none of the studies have purported to examine in any way the consequences to anyone or anything other than migratory birds of implementing any of the measures being proposed. It is undisputed that

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<sup>17/</sup> *Migratory Bird Mortality Report* at 2.

<sup>18/</sup> Courts have held that much higher figures in other areas did not constitute significant effects under NEPA. *See, e.g., Public Citizen v. Nat'l Highway Traffic Safety Admin.*, 848 F.2d 256, 268 (D.C. Cir. 1988) (holding that a 0.1 percent increase in annual fuel consumption attributable to a rule “does not rank as ‘significant’”).

<sup>19/</sup> “[A]n agency rule would be arbitrary and capricious if the agency...offered an explanation for its decision that runs counter to the evidence before the agency.” *Motor Vehicle Manufacturers Assn. v. State Farm Mutual Insurance Co.*, 463 U.S. 29, 43 (1983).

communications towers are essential to the provision of advanced telecommunications and broadcast services, including not only digital broadcast radio and television and cell phone service but also public safety and homeland security communications. Imposing onerous requirements on tower siting and construction could compromise public safety, hinder communications deployment including the transition to digital broadcasting, and significantly increase consumer costs. In these circumstances, if the Commission were inclined to continue its consideration of this matter, further study would be necessary to determine whether any of the proposed changes to tower regulations may be safely implemented without causing undue harm to the deployment of essential communications infrastructure.

**A. The Commission Should Not Require the Use of White Strobe Lights**

The Commission has proposed requiring towers subject to its rules to be fitted with medium intensity white strobe lights for nighttime conspicuity to the maximum extent possible without compromising aircraft navigation safety.<sup>20/</sup> As the Commission recognizes, however, the specifications for tower marking and lighting are generally determined by the Federal Aviation Administration (“FAA”), as the agency with particular expertise in this area, in accordance with its Advisory Circular 70/7460-1K. Moreover, as the Commission notes, in 2004, the FAA issued interim guidance directing Regional Air Traffic Division Managers that use of medium intensity white strobe lights for nighttime conspicuity was to be preferred over red obstruction lighting systems when feasible and to the maximum extent possible in cases where aviation safety would not be compromised.<sup>21/</sup> Thus, it is difficult to comprehend why

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<sup>20/</sup> NPRM at 22.

<sup>21/</sup> *Id* (citing April 6, 2004 Memorandum from the FAA’s Program Director for Air Traffic Airspace Management, ATA-1, Sabra W. Kaulia, to Regional Air Traffic Division Managers). However, according to the Advisory Circular, use of white strobe lights is not normally recommended in urban areas due to their tendency to merge with

additional FCC regulation is needed. If the FAA determines that white strobe lights should not be recommended for a particular tower, the FCC lacks the expertise to second guess that safety determination.<sup>22/</sup>

Moreover, no consideration has been given to non-safety related consequences of this proposed change. For example, white strobe lights can pose a visual nuisance to neighboring homes, thereby making it difficult for communications entities to obtain permission to construct towers in urban and suburban areas. Not only could this problem lead to loss of service, it could also have the unintended consequence of forcing communications entities to construct towers in more rural areas with larger bird populations. Similarly, no consideration has been given to the cost of installing such lighting, particularly of retrofitting all existing towers, a cost that would be borne by broadcasters and other communications companies and ultimately by consumers.

#### **B. The Commission Should Not Limit the Use of Guy Wires**

The Commission should not limit the use of guy wires in the construction of communications towers. Guy wires are employed to add stability to a tower. Thus, they help ensure public safety as well as the safety of tower workers. They also conserve financial resources by protecting against potential tower collapses due to inclement weather or insufficient

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background lighting in these areas at night, thereby making it difficult for certain types of aviation operations, such as med-evac and police helicopters, to see the structures. The use of these lights is also not recommended on structures within three nautical miles of an airport. FAA Advisory Circular 70/7460-1K at page 17.

<sup>22/</sup> It should be noted that communications industry groups are attempting to work with avian groups to reduce avian mortality caused by tower strikes. In this regard, communications industry and avian groups have requested that the FAA conduct a conspicuity study to examine whether the use of steady burning red obstruction sidelights, which the Gehring/Kerlinger study suggested cause greater numbers of avian deaths than other types of lighting systems, may be safely eliminated where currently prescribed for communications towers. See Letter from Andrea Williams, Assistant General Counsel, CTIA – The Wireless Association *et al.* to the FCC regarding *Ex Parte* Presentation in WT Docket No. 03-187, dated April 6, 2007.

support. The Commission should not second guess the informed judgment of an engineer that such wires are necessary to protect the public.

**C. The Commission Should Not Limit Tower Height**

The Commission should not impose restrictions on tower height. As has been documented previously in this proceeding, reducing the height of a tower can substantially decrease the number of people capable of being served. Thus, in order to make up for the coverage loss, more towers must be constructed at additional cost.<sup>23/</sup> These extra towers may also pose additional risk to migratory birds. Moreover, in some cases, construction of additional towers may be cost prohibitive, technically infeasible, or impossible due to the need to obtain numerous state and local approvals. In these cases, permanent loss of service could result, thereby substantially reducing existing broadcast and telecommunications service as well as jeopardizing the digital transition and hindering wireless network buildouts, including the construction of public safety infrastructure.

**D. The Commission Should Not Further Limit Tower Siting or Require Collocation**

The Commission should not impose additional requirements on the location of towers. As noted by others in this proceeding, the siting of towers already requires, in some instances, extensive local, state, federal, and tribal review. Moreover, in some areas, tower siting may already be highly circumscribed. Tower location is further circumscribed by the area to be

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<sup>23/</sup> See Comments of Prince George's County Maryland *et al.*, dated January 5, 2007, at 8 (noting Prince George's County estimate that six to eight additional towers, at a projected cost in excess of \$12 to \$16 million, would be necessary to achieve the same level of coverage if all towers in its new land mobile radio system were limited to approximately 200 feet); Comments of the South Dakota Public Utilities Commission, dated March 8, 2007, at 2 (noting that in order to offer similar service to the same rural geographic area in South Dakota, a wireless provider would need to erect three shorter towers versus one taller tower).



served. The Commission should not further limit potential tower locations. For similar reasons, the Commission should not mandate collocation. While collocation should be encouraged where feasible, the Commission must recognize that it is not possible or technically desirable in all circumstances.

### **CONCLUSION**

In sum, the Commission should not adopt any new rules or policies in this area, particularly given that the known costs, in the form of impaired aircraft navigational safety, public safety, homeland security, and deployment of communications infrastructure as well as significantly increased consumer costs for communications services, outweigh any speculative benefits. For this reason, the State Associations urge the Commission to refrain from imposing additional regulations with respect to potential bird strikes of communications towers.

Respectfully submitted,

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